

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

**USDC-SDNY  
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INFINITY TRANSPORTATION MSN 6651,  
LLC,

Plaintiff,

v.

SYNERGY AEROSPACE CORP.,

Defendant.

No. 19-CV-209 (RA)

ORDER

RONNIE ABRAMS, United States District Judge:

On May 28, 2020, Orloff, Lowenbach, Stifelman & Siegel, P.A. (“OLS&S”) moved to withdraw as Defendant’s counsel. Dkt. 52. On June 1, 2020, Plaintiff filed a letter in response to OLS&S’s motion. Dkt. 54. On June 3, 2020, the Court ordered OLS&S to serve its motion to withdraw and supporting papers, as well as Plaintiff’s letter response, on Defendant and file proof of such service on the docket by June 4, 2020. Dkt. 55. The Court further ordered Defendant to inform the Court whether it opposes its counsel’s motion to withdraw no later than June 10, 2020 and stated that if Defendant opposes its counsel’s motion to withdraw, it shall describe its basis for doing so. *Id.* The Court advised Defendant that “a corporation may not appear in a lawsuit against it except through an attorney.” *Grace v. Bank Leumi Trust Co. of NY*, 443 F.3d 180, 192 (2d Cir. 2006); *see also SEC v. Pentagon Capital Mgmt. PLC*, No. 08 Civ. 3324 (RWS), 2012 WL 3065981, at \*4 (S.D.N.Y. July 25, 2012) (“It is well-established that a corporation cannot represent itself in a civil action.”) (*citing Jones v. Niagara Frontier Transp. Auth.*, 722 F.2d 20, 22 (2d Cir. 1983)). Accordingly, the Court stated that Defendant cannot proceed in this action without representation of counsel. Dkt. 55.

On June 5, 2020, OLS&S filed an affidavit of service stating that it served the motion to withdraw and supporting papers on Defendant by emailing Mr. Germán Efromovich. Dkt. 56. Such email service does not appear to comply with the Federal Rules of Civil Procedure. On July 14, 2020, Plaintiff filed a letter requesting that the Court establish a deadline for Defendant to appear through new counsel. Dkt. 57. On July 16, 2020, the Court directed Defendant to file the letter described in the Court's June 3, 2020 Order, stating whether it opposes its counsel's motion to withdraw, and if so, its basis for doing so, no later than July 23, 2020. Dkt. 58. The Court further stated that if Defendant consents to its counsel's motion to withdraw, it shall appear through new counsel no later than August 20, 2020. *Id.* Finally, the Court ordered that if Defendant fails to appear through new counsel, and if Plaintiff intends to move for default judgment, it shall do so no later than September 3, 2020. To date, Defendant has not filed a letter informing the Court as to whether it opposes its counsel's motion to withdraw, nor has new counsel entered an appearance on behalf of Defendant.

On August 24 and 25, 2020, Plaintiff filed a motion for entry of default judgment against Defendant, a supporting declaration by David C. Green, a proposed certificate of default, and two certificates of service attesting to service thereof on Defendant. Dkts. 59-62, 64. On August 25, 2020, the Clerk issued a certificate of default. Dkt. 63.

It remains unclear, however, whether Defendant has received proper service of the Court's June 3, 2020 or July 16, 2020 Orders. Accordingly, Defendant's deadline to file the letter described in the Court's June 3, 2020 Order, stating whether it opposes its counsel's motion to withdraw, and if so, its basis for doing so, is hereby extended to **September 16, 2020**. If Defendant consents to its counsel's motion to withdraw, it shall appear through new counsel no later than **September 23, 2020**. **If Defendant fails to appear through new counsel, the Court**

**will take Plaintiff's motion for default judgment under consideration and judgment may be entered for Plaintiff.**

Plaintiff shall serve a copy of this Order, the June 3, 2020 Order, the July 16, 2020 Order, and the Clerks' Certificate of Default on Defendant by **September 9, 2020** by the methods described in the Federal Rules of Civil Procedure. Plaintiff shall file promptly proof of such service with the Court.

SO ORDERED.

Dated: August 26, 2020  
New York, New York

A handwritten signature in blue ink, appearing to read 'Ronnie Abrams', is written above a horizontal line.

Ronnie Abrams  
United States District Judge